IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	
Oliver et al.	:	Art Unit: 1643
Serial No. 10/523,292	:	Examiner: Anne L. Holleran
Filed: February 3, 2005	:	Atty Docket: SJ-02-0011A
For: Diagnostic and Therapeutic Uses for Prox 1	:	

RESPONSE TO RESTRICTION REQUIREMENT

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement dated April 18, 2007 issued for the referenced application applicants hereby elect claim group II, claims 1-5 (to the extent the claims are drawn to methods of detecting Prox1 protein), with traverse for further prosecution.

Applicants respectfully traverse this restriction requirement with respect to claim groups I and II and reserve the right to petition therefrom under 37 C.F.R. §1.144.

With respect to claim groups I and II (as well as groups III, IV and VI), the Examiner notes a common feature of using Prox1 expression as a marker for lymphatic precursor cells. However, the Examiner asserts that this feature is known in the art based on the teachings of

Wigle, J.T. *et al., Cell 98*: 769-778 (1999) and therefore is not a common feature that distinguishes from the prior art.

Applicants respectfully disagree and note that the Examiner has failed to recognize the common technical feature shared by claim groups I and II that distinguishes them from the teachings of Wigle and Oliver (1999). This common technical feature is the expression of Prox1 in the lymphatic tissue of a tumor.

Wigle and Oliver (1999) does teach that Prox1 was a marker for lymphatic endothelial cells during embryonic development and that its activity was necessary for the formation of the lymphatic vasculature. However, Wigle and Oliver (1999) did not address whether Prox1 was also expressed in adult lymphatic tissue or whether Prox1 was also expressed in tumor lymphatic tissue. Wigle and Oliver (1999) also failed to teach the function of Prox1 in lymphatic development. Without having direct evidence or knowing the function of Prox1, the skilled artisan would not be able to predict where Prox1 would be expressed other than in lymphatic cells in embryonic tissue.

These questions are answered in the present application and in the scientific article on which it is based, Wigle et al., EMBO J. 21: 1505-1513 (April 2002) (disclosed as reference AQ1). Wigle (2002) and the present application teach that 1) Prox1 activity is necessary to promote a lymphatic endothelial cell fate in blood endothelial cell progenitors, 2) Prox1 is expressed in adult lymphatics, and 3) Prox1 is expressed in tumor associated lymphatics. Publication of this article evidences the recognition in the scientific community that these questions remained open after Wigle (1999). Otherwise this article would have been rejected as covering known information.

In accordance with the remarks above, applicants respectfully request that the Restriction Requirement be reconsidered and withdrawn with respect to claim groups I and II to allow prosecution of the entire scope of pending claims 1-5 in the same application.

No fee is believed to be required for consideration of this submission. If applicants are incorrect and a fee is required the Commissioner is hereby authorized to charge such fee to Deposit Account No. 501968.

Respectfully submitted,

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